

Dubuque County Zoning Commission Minutes of August 16, 2022

Chairperson Dave George called the meeting to order at 6 p.m.

1. ROLL CALL: Members present at the Dubuque County West Campus, 1225 Seippel Rd: Dave George, Sam Boyes, Kathleen Scherrman, Kevin Soppe, Carmen Dunkel, Ron Breitbach and Lisa Flanagan. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Amy Schmerbach.

2. APPROVAL OF MINUTES: A motion was made by Ms. Boyes, **seconded by Ms. Scherrman, and passed unanimously to approve the minutes of the July 19, 2022 meeting. Vote: 7-0.**

3. PLAT APPROVAL:

Plat of Survey of Joseph O'Neill's 4th Subdivision – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Joseph O'Neill's 4th Subdivision comprised of Lot 1 and Lot 2 of Joseph O'Neill's 3rd Subdivision, all in Section 8, T88N, R1W, Taylor Township, Dubuque County, Iowa.

The property is owned by Michael & JoAnn Besler and is located .55 miles east of the City of Farley along Old Highway Road with a total of 8.664 acres surveyed. The property is zoned R-2, Single Family Residential. The purpose of the plat is to reconfigure the lot lines to increase the size of one lot and decrease the size of the other lot.

The survey creates 2 lots. Lot 1 has a total of 4.049 acres surveyed with a cabin and garage and will remain in current ownership and residential use. Lot 2 has a total of 4.615 acres surveyed with a house and shed and will remain in current ownership and residential use.

Lot 1 will use a shared 30' wide access easement across Lot 2 off of Old Highway Road. Lot 2 will use an existing residential entrance off of Old Highway Road.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said Michael & JoAnn Besler wanted to change the property line to add more land to the lot that the house is currently on.

Ms. Boyes asked if the current driveway would be the access for both lots and Mr. Schneider said yes, there is an easement in place for the access.

Mr. George asked if anyone had questions, and no one spoke.

A motion was made by Ms. Boyes, **seconded by Mr. Soppe to approve the plat. The motion passed unanimously. Vote: 7-0.**

Plat of Survey of Reuter 3rd Addition – Final Plat

Plat of Survey of Lot 1 and Lot 2 of Reuter 3rd Addition comprised of Lot 1 in Reuter 2nd Addition and Lot B in Oakland Ridge Estates, all in Section 10, T88N, R2E, Table Mound Township, Dubuque County, Iowa.

The property is owned by Oakland Farm Real Estate Company and is located .38 miles northwest of the City of Dubuque along Oakland Farms Road with a total of 28.14 acres surveyed. The property is zoned R-2, Single Family Residential. The purpose of the plat is to allow the owner to sell the home and shed in the future and to have better access to the remaining property for future development.

The survey creates 2 lots. Lot 1 has a total of 2.31 acres surveyed with a house and shed and will remain in current ownership and residential use. Lot 2 has a total of 25.83 acres surveyed and will remain in current ownership and agricultural use.

Lot 1 will use an existing Residential entrance off Oakland Farms Road. Lot 2 will have a 66' access easement across Lot 1 and it will be named Lauren Ridge.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said Oakland Farm Real Estate purchased Lot 1 in Reuters 2nd Addition with the intention of creating better access for the future development of the second stage of Oakland Farm Subdivision.

Mr. Schneider said after the platting is complete the home will still meet the setbacks for the R-1, Rural Residential zoning and the remainder of the land will stay R-2, Rural Residential zoning.

Ms. Boyes asked how long ago the property was zoned residential and Mr. Schneider said around 2016. Ms. Henry said that it was all originally zoned R-1, Rural Residential then switched to an R-2, Single Family Residential so when the lots were sold there wouldn't be such large setbacks/driveways for the future development of homes.

Mr. George asked if anyone had additional questions, and no one spoke.

A motion was made by Mr. Soppe, **seconded by Ms. Scherrman to approve the plat. The motion passed unanimously. Vote: 7-0.**

Plat of Survey of Weber's Second Addition – Final Plat

Plat of Survey of Lot 1 thru Lot 4 of Weber's Second Addition comprised of Lot 1 in Weber's First Addition Section 33, T88N, R3E, Mosalem Township, Dubuque County, Iowa.

The property is owned by the Estate of Lester A. Weber, Executor Jeanette Talbert and is located 3.37 miles southeast of the City of Dubuque along Dayton Road with a total of 241.514 acres surveyed. The property is zoned A-1, Agricultural. The purpose of the plat is to divide the parcel to allow the family to sell the land and finalize the Estate.

The survey creates 4 lots. Lot 1 is an un-buildable lot and has a total of 2.598 acres surveyed and will be transferred to the neighbor, David Reiss. Lot 2 has a total of 85.159 acres surveyed with timber and will be sold at auction. Lot 3 has a total of 106.317 acres

surveyed with a home, buildings and cropland and will be sold at auction. Lot 4 has a total of 47.440 acres surveyed and will be sold to a family member, Francis and Vicki Weber.

Lot 1 will use an existing field entrance through a neighboring farm off of Mitchell Mill Road. Lot 2 will use an existing field entrance off of Mitchell Mill Road. Lot 3 will use an existing field entrance off of Dayton Road. Lot 4 will use an existing residential entrance off of Dayton Road.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said this was the same property that went through rezoning last month and it was tabled at the County Supervisors meeting and with it not moving forward, the family decided to withdraw the 10-acre rezoning request and list it on the market before the interest rate hikes could occur.

Mr. George asked if anyone had additional questions or comments, and no one spoke.

A motion was made by Mr. Breitbach, **seconded by Ms. Boyes to approve the plat. The motion passed unanimously. Vote: 7-0.**

4. REZONING CASES:

ZC#08-23-22 Dennis & Sallie Hunt A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.65 acres to allow them to separate the home and shed and keep in current ownership and sell the remaining farmland and agricultural buildings to a neighboring farmer. The property is located adjacent to the City of Epworth along Bobcat Road and is legally described as SW NE Section 15, T88N, R1W, Taylor Township, Dubuque County, Iowa.

The property is owned by Dennis & Sallie Hunt. Zoning in the area includes A-1, Agricultural to the north, south, east and west. There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Thirteen (13) rezoning notification letters were sent to the property owners and the City of Epworth was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said the Hunts plan to reside at the current property but sell the farmland to a neighbor that already maintains the farming business. Mr. Schneider said the purchasers do have a first right of refusal agreement on the property. Ms. Henry said that the purchasers of the land do intend to purchase the home as well if the Hunts decide to sell.

Mr. George asked if there were additional questions or comments, and no one spoke.

A motion was made by Ms. Boyes, **seconded by Ms. Dunkel to approve the rezoning with the conditions that 1.65 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote: 7-0.**

ZC#08-24-22 Thomas J Budde Revocable Family Trust A-1 Agricultural to A-2 Agricultural Residential

The applicant is requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.21 acres to allow him to separate the home, garages and farm buildings so he can sell the farmstead and keep the crop land. The property is located .14 miles southwest of the City of Graf along Graf Road and is legally described as Lot 2 Budde Acres Section 30, T89N, R1E, Center Township, Dubuque County, Iowa.

The property is owned by Thomas J. Budde Revocable Family Trust. Zoning in the area includes A-1, Agricultural to the north, south, east and west. A-2, Agricultural Residential to the south. R-1, Rural Residential to the south and R-2, Single Family Residential to the south. The A-2, Agricultural Residential to the south on ZC#12-30-21 was to allow for the construction of a new home to replace an existing farm home. The R-1, Rural Residential to the south on ZC#9000-15-79 was to allow for the construction of a single-family dwelling. The R-2, Single Family Residential to the south on ZC#08-18-13 was to allow an existing structure to be converted into a single-family home.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Six (6) rezoning notification letters were sent to the property owners and the City of Graf was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said Mr. Budde owns quite a few farmlands, and he was trying to get away from renting property out so he wants to separate the farm ground so he could sell the homestead.

Mr. George asked if anyone had additional questions or comments, and no one spoke.

A motion was made by Ms. Boyes, **seconded by Mr. George to approve the rezoning with the conditions that 1.21 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote: 7-0.**

ZC#08-25-22 Ronald & Jessalynn Breiner R-1, Rural Residential to R-2, Single Family Residential

The applicants are requesting to rezone from R-1, Rural Residential to R-2, Single Family Residential 86.15 acres to allow them to move the lot lines to fix the title issues with the neighbors houses that encroach on Breiner's property, and to allow for future development. The property is located 1.75 miles northwest of the City of Asbury along Five Points Road is legally described as Lot 1 and Lot 2 Schrobilgen Place Section 16, Lot 1 SW SW and SE SW in Section 9, T89N, R1E, Center Township, Dubuque County, Iowa.

The property is owned by Ronald & Jessalynn Breiner. Zoning in the area includes A-1, Agricultural to the north, south and west. A-2, Agricultural Residential to the northwest. R-1, Rural Residential to the north, south, east and west. The A-2, Agricultural Residential to the

northwest on ZC#03-11-18 was to allow the construction of a new home. The R-1, Rural Residential to the west on ZC#01-01-92 was to allow the construction of a new home.

There are no previous rezoning cases attached to this property. There is one Special Use Permit attached to this property on BA#08-36-94 to allow a mobile home to be placed on the property. Seventeen (17) rezoning notification letters were sent to the property owners and the City of Asbury was notified.

Comprehensive Plan Policy Chapter 12 Land Use page 179 Objective 3.5 and page 180, Objective 6.4 may apply to this case.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said the Breiner's purchased the property in 2020 with the purpose of farming the land and then they resell the property for development however, he found a major title issue with the adjacent property owned by Kent Roebken. The Roebken's home was placed on the Breiner's parcel of land. Mr. Schneider said he was working with the Roebken's to adjust their lot line so they could own their home. He said the only way it could be done is to switch it from an R-1, Rural Residential to an R-2, Single Family Home because there would not be enough space on the property to meet the setbacks and their case was next on the agenda. Mr. Schneider said it was easier to submit the rezoning requests for the Breiners & Roebken's at the same time.

Mr. Schneider said these rezoning cases would be followed up with a plat.

Speaking to the board was Judy Roebken, 16130 Five Points Rd, Durango. Ms. Roebken asked if the land was subdivided would she have to potentially share her driveway. Ms. Henry said no.

Mr. Breitbach asked how this land got zoned R-1, Rural Residential. Ms. Henry said it was zoned R-1, Rural Residential when zoning got put into place back in the late 1960's and early 1970's.

Mr. George asked if anyone had additional questions or comments, and no one spoke.

A motion was made by Mr. Breitbach **seconded by Ms. Boyes to approve the rezoning. The motion passed unanimously. Vote: 7-0.**

ZC#08-26-22 Kent & Judy Roebken R-1, Rural Residential to R-2, Single Family Residential

The applicants are requesting to rezone 2 acres from R-1, Rural Residential to R-2, Single Family Residential to allow them to move the lot lines to fix the title issues with their houses that encroach on Breiner's property. The property is located 2.19 miles northwest of the City of Asbury along Five Points Road is legally described as the W ½ Lot 2 SW SW and E ½ Lot 2 SW SW all in Section 9, T87N, R1E, Center Township, Dubuque County, Iowa.

The property is owned by Kent & Judy Roebken. Zoning in the area includes A-1, Agricultural to the north, south and west. R-1, Rural Residential to the north, south, east, and west. R-2, Single Family Residential to the northwest. The R-2, Single Family Residential to the northwest on ZC#10-33-16 was to for a residential subdivision consisting of four lots.

There are no previous zoning cases attached to this property. There is one Special Use Permit attached to this property on BA#07-52-01 to allow for the construction of a detached garage. Five (5) rezoning notification letters were sent to the property owners and the City of Asbury was notified.

Comprehensive Plan Policy Chapter 12 Land Use page 179 Objective 3.5 and page 180, Objective 6.4 may apply to this case.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider that this request is a follow-up of the previous request for the Breiner's zoning case. The request is being made for the R-2, Single Family Residential because there is just not enough space once the property lines are moved to meet the R-1, Rural Residential setbacks.

Mr. George asked if there were any additional questions and comments, no one spoke.

A motion was made by Mr. Soppe **seconded by Ms. Scherrman to approve the rezoning. The motion passed unanimously. Vote: 7-0.**

ZC#08-27-22 Estate of Lucille McAndrew, c/o Janice Tucker A-1 Agricultural to A-2 Agricultural Residential

The applicants are requesting to rezone from A-1, Agricultural to A-2, Agricultural Residential 1.54 acres to allow them to separate the existing home, shed and silo so a family member can continue to live in the home. The property is located 4.12 miles northeast of the City of Bernard along McCullough Lane and is legally described as PT SW SE Section 1, T87N, R1E, Prairie Creek Township, Dubuque County, Iowa.

The property is owned by the Estate of Lucille McAndrew, c/o Janice Tucker. Zoning in the area includes A-1, Agricultural to the north, south, east and west. R-1, Rural Residential to the north on ZC#9000-11-69 to allow for the construction of a single-family home.

There are no previous rezoning cases attached to this property. There are no Special Use Permits attached to this property. Eight (8) rezoning notification letters were sent to the property owners and the City of Graf was notified.

Comprehensive Plan Policy Chapter 9 Agricultural and Natural Resources page 134 Objective 3.1 and Chapter 8 Housing page 122 Objective 12.7 may apply to this case.

Speaking to the board was Dave Schneider, Schneider Land Surveying, 906 1st St North, Farley. Mr. Schneider said that this is an Estate case that the family plans to separate off the home and continue to own the home together as a family in a Limited Liability Company. He said the son will continue to live in the home. Mr. Schneider said this zoning request is setting up the property for potential sale.

Speaking to the board was Carole Cigrand, daughter of Lucille McAndrew. She explained That the other home on McCullough Lane was a different property owner and had nothing to do with the estate.

Mr. George asked if there were any additional questions or comments, no one spoke.

A motion was made by Ms. Boyes, seconded by Mr. George to approve the rezoning with the conditions that 1.54 acres more or less be rezoned to A-2, Agricultural/Residential for one home only and the remainder will stay A-1, Agricultural. That the balance of the parcel is not allowed to have another dwelling unless the property is rezoned for that use. The motion passed unanimously. Vote: 7-0.

5. OLD BUSINESS:

ZC#07-22-22 Estate of Lester A. Weber, co-executor Jeanette Talbert A-1

Agricultural to A-2 Agricultural Residential was tabled by the Board of Supervisors.

Ms. Boyes asked if it was common to table a rezoning case prior to a public hearing. Ms. Henry said it doesn't happen often and she had talked to the County Auditor Kevin Dragotto, and he said due to the public input that he received he thought it was in the best interest of the public to table the case and review it. Ms. Henry said the family decided to withdraw the rezoning request and bring the new Weber's Second Addition plat forward to prevent delay of the sale of the land.

6. NEW BUSINESS:

Ms. Henry said that the PC, Planned Complex update was still in process, and she hoped to have more information coming soon. She said she is currently reviewing the Zoning Ordinance changes that were sent to her from the County Auditor Kevin Dragotto. Ms. Henry said once all corrections/changes were made we would notify the County Auditor Kevin Dragotto. Speaking to the board was County Auditor Kevin Dragotto. He said upon completion he would send the codified ordinances off to the newspapers and it would take effect immediately once the notice is published. Mr. Dragotto said once the PC, Planned Complex changes come through then he would file an amendment at that time.

7. PUBLIC COMMENTS:

Speaking to the board was Roger Weber, 10275 Higley Drive, Peosta. He thanked the zoning board for approving ZC#07-22-22 Estate of Lester A. Weber rezoning request at the last meeting. Mr. Weber stated he knows the board received a lot of opposition from the public some verbal as well as a petition. He said he met with many of the people in person after the meeting that had signed the petition in opposition, and they were told a different story than what the intention of the rezoning request was for. Mr. Weber stated they were told that it was going to be a development. He said that the A-2, Agricultural Residential rezoning would only allow for one home on a 40-acre parcel. He said the rezoning request would have given someone in his family a chance to buy that piece of the farm and no development would have occurred, but it was tabled because of the opposition. He said that some of the people that signed the petition in opposition had built homes on their family farms, so they got a piece of where they were raised. He said by the rezoning case being tabled his family will not have the opportunity to retain a part of their heritage.

8. ADJOURNMENT: A motion was made by Mr. Soppe., seconded by Ms. Boyes to adjourn the meeting. The motion passed unanimously. Vote:7-0. The meeting ended at 6:51 p.m.